



Journal of Alpine Research | Revue de géographie alpine

Hors-Série | 2013

Le 11 mars 2012 en Suisse : limiter les résidences secondaires, les enjeux d'une votation

Acceptance of the initiative on second homes

Emergence of a new development model for Swiss winter sports resorts?

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Electronic version

URL: <http://journals.openedition.org/rga/2274>

DOI: 10.4000/rga.2274

ISSN: 1760-7426

Publisher

Association pour la diffusion de la recherche alpine

Electronic reference

Christophe Clivaz, « Acceptance of the initiative on second homes », *Journal of Alpine Research | Revue de géographie alpine* [Online], Hors-Série | 2013, Online since 08 April 2014, connection on 22 April 2019. URL : <http://journals.openedition.org/rga/2274> ; DOI : 10.4000/rga.2274

This text was automatically generated on 22 April 2019.



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Acceptance of the initiative on second homes

Emergence of a new development model for Swiss winter sports resorts?

Christophe Clivaz

EDITOR'S NOTE

Translation: Brian Keogh

- 1 Since the 1960s, most of the Swiss winter sports resorts have developed with the help of a strong focus on the construction of second homes. While the accommodation capacity of the hotel sector has remained stable since the 1970s, the number of second homes has exploded. In 2010, there were approximately 513,000 second homes in Switzerland (12% of total housing stock), of which 315,000 were in the alpine part of the country (BAKBASEL, 2013, p 3). In mountain resorts, second homes generally represent more than half of the existing housing stock. In this context, the acceptance by Swiss voters in March 2012 of the initiative to limit second homes came as a real bombshell for tourist regions. We suggest that the adoption of this initiative will bring about change in the Swiss resort development model, a change that has been regularly announced for some 30 years in numerous political discourses but has yet to become reality in the form of a shift from a “tourism of construction” to a “tourism of services”¹.
- 2 We begin by briefly reviewing the effects on land use of a development model based on the construction of second homes, before examining the measures taken by the public authorities to manage these effects. We then describe the modifications made recently to the legal framework, particularly those relating to the adoption of the second homes initiative. Then we emphasize the discrepancy between the rhetoric of elected officials and the reality on the ground with regard to the control of real estate development, a difference that we explain in terms of the configurations of the actors in power in local governance. In the final section we return to the change in the development model

imposed by the acceptance of the initiative and to the question of the appropriate spatial scale to implement this change. Throughout this study, reference will be made to the canton of Valais to illustrate our observations.

Effects of second homes on tourist destination regions

- 3 The first scientific studies focusing on second homes were conducted some fifty years ago in both Europe and North America (Hall & Müller, 2004). The work by Coppock (1977) *Second Homes: Curse or Blessing* was one of the earliest to question whether second homes could be considered as having a beneficial or negative impact on host areas. More recently, the International Association of Scientific Experts in Tourism (AIEST) organised its annual conference twice around the question of leisure accommodation, attracting several contributions on the topic of second homes (AIEST, 1995; Keller & Bieger, 2008). In Switzerland, scientific literature on tourism and second homes is relatively limited (Clivaz & Nahrath, 2010; Stettler & Danielli, 2008). However, there are several studies by experts that have focused on the advantages and disadvantages of second homes (FST, 1985; ASPAN, 1993; ARE, 2010).
- 4 In general, these studies by academics and experts mention the main advantages as being the fact that landowners, real estate developers, the building trades and solicitors all benefit in terms of increased revenues, while public authorities enjoy an enlarged fiscal base in the short term. However, these advantages are also accompanied by a series of disadvantages, often only perceptible in the longer term, which for some are increasingly painful. From an economic point of view, the idea of “selling the cow” (land and real estate) rather than “selling the milk” (tourism services) gradually sets in motion a vicious circle: poorly controlled urbanisation and a decrease in the attractiveness of the destination results in a loss of market accommodation and thus less revenue for tourism businesses. This can be explained mainly by the fact that the great majority of second homes are not put on the tourist accommodation rental market. According to a study conducted in Valais, a guest staying in a hotel spends an average of 200 Swiss francs per day as opposed to 100 Swiss francs per day for a visitor staying in rented accommodation, and 70 Swiss francs for a visitor in a second home (Rütter *and al.*, 2001).
- 5 The disadvantages of developing too many second homes are not only felt in the economic sphere, but also in terms of their social and environmental impacts. In this regard, the following may be underlined:
 - Difficulties for the local population to access the property market and find housing because of rising prices fuelled by the demand for second homes;
 - Substantial costs for public authorities arising from the construction and maintenance of public infrastructures (wastewater networks, drinking water supplies, waste treatment, etc.)
 - A very negative carbon (CO₂) footprint on account of the resulting individual motorized traffic and holiday apartments and chalets that are heated all winter;
 - Fragmentation of the landscape due to the dispersion of second homes encouraged by building zones that are generally too extensive;
 - Loss of control over local land, sold to outside buyers, and with it the loss of decisional power among local actors concerning the region's future.

- 6 The drawing of attention to these disadvantages gradually put pressure on political authorities who responded by seeking ways to minimise them.

The role of the public authorities in the management of second homes

- 7 In the Swiss federalist system, responsibilities are divided between the federal, cantonal and municipal (or communal) levels. With regard to resort development, and particularly the construction of second homes, the federal government has for a long time played but a minor role. Although a federal law on spatial planning has existed since 1980, this only conferred a role of coordination and surveillance on the Confederation, application of any laws being the responsibility of the cantons and the municipalities. The weakness of the spatial planning policy, which did not manage to control urban sprawl, whether in the urban zones or the rural and tourist zones, recently led to its revision, a process that we will present in the following section. The only responsibility at the federal level which had an impact in recent decades on the increase in the number of second homes is the Federal law on the acquisition of buildings by people living abroad, the first version of which dates back to the 1960s. This legislation limits the possibility for the latter to acquire a holiday home by the introduction of an annual quota (1500 authorisations). However, it does not concern those persons domiciled in Switzerland who make up the major part of second-home owners.
- 8 In the absence of restrictive federal measures concerning the regulation of second homes, most of the tourist municipalities have not introduced specific regulations in this respect. Some municipalities, essentially the German-speaking ones, did however take measures as early as the end of the 1980s, such as the adoption of a quota for principal residences, a quota for second homes, or the creation of hotel zones (Clivaz & Nahrath, 2010). For a long time, it was thus essentially at the municipal level that regulatory measures were implemented. It is only recently that there has been a gradual “return of the State”, with the issue of second-home management coming to the forefront at the level of both the Confederation and the main tourist cantons (Clivaz & Marcelpoil, in press). The Valais canton, for example, adopted a tourism policy in 2003 in which one of the objectives was “the limitation of the number of second homes as well as the types of housing having a strong impact on land use and the landscape, and generating limited added value”. (Canton du Valais, 2003). The federal government also published a guide in 2010 for cantons and municipalities that lists a series of measures that could potentially be put in place, or are already in place, at the municipal level (ARE, 2010). Although the State’s role remains relatively modest, it took a decisive step forward when the Suisse electorate voted on March 11, 2012 in favour of the initiative “To put a stop to the invasive spread of second homes” (known as the “Weber initiative” after the name of its leading proponent, the ecologist Franz Weber).

The bombshell of March 11, 2012... and the aftershocks of March 3 and May 22, 2013

- 9 The aim of this initiative was to write into the Swiss Constitution, through the addition of a new article (75a), the fact that “second homes should account for a maximum of 20 per

cent of total housing stock and of the total area of inhabitable land of each municipality”² (al. 1). In concrete terms, as map 1 shows, it concerns the great majority of municipalities in the alpine area and virtually all the tourist municipalities. Its acceptance by a narrow margin (50.6% of “yes” votes) had a real bombshell effect since nobody had seen it coming when the initiative was submitted to the Federal Chancellery on December 18, 2007. Moreover, the parliament had not thought it useful to propose a counter-project and restricted itself to adding a new provision to the Spatial Planning Law, which came into force on July 1, 2011, requesting cantons to define, in their master plans, the “areas where special measures must be taken with a view to maintaining a balanced proportion of principal residences and second homes” (art. 8, al. 2). Although the adoption of this provision is testimony to the awareness of the federal authorities regarding the second homes issue, in reality it had little impact since the provision did not define what was meant by “balanced proportion” and left it up to individual cantons and municipalities to interpret this notion. Indeed, the provision was not enough to convince the majority of Swiss citizens to reject the initiative. With the initiative being accepted, the Confederation was then invested with the power to play a strong hand in dealing with the issue of second homes.

Map 1. Swiss municipalities with more than 20% of total housing stock in second homes (in dark grey)



SOURCE: CF, 2008, P. 7896

- 10 The shock of March 11, 2012 was followed by two aftershocks. The first took place on March 3, 2013, when Swiss citizens refused a referendum launched against a revision of the Spatial Planning Law adopted by the parliament in June 2012. This revision, proposed in an attempt to get a withdrawal of the landscape initiative that aimed to put a 20-year freeze on the area of building zones, introduced different provisions (value-added tax, sizing of building zones, densification of built area) aimed at remedying the shortcomings of the regulatory measures provided for by the Law of 1980. This revision particularly affects the tourist municipalities, which are clearly the types with the largest reserves of building land (ARE, 2008). Some of them, particularly in Valais, where application of the

Spatial Planning Law left the municipalities with considerable room for manoeuvre, thus find themselves today in a situation where they are obliged to reduce the area of their building zones following the acceptance of the Weber initiative. Such a reduction raises the question of compensation by the public authorities for owners whose land will be removed from the building zone and consequently lose a large part of its market value.

- 11 The second aftershock concerns the date when the Weber initiative will come into force. The text of the initiative left room for speculation on the possibility of obtaining a building permit for second homes between the date of the vote and the end of the calendar year. An avalanche of requests for building permits was thus registered in certain tourist municipalities between March 12 and December 31, 2012, with many landowners seeking to capitalise on their plots in the building zone, even if they did not have any immediate buyer for a second home. Since a building permit can be valid for up to five years, building firms were thus hoping to have a reserve of work for the next few years. The hopes of these landowners and building firms, however, were dashed by the decision of the Federal Supreme Court on May 22, 2013 ruling that the initiative was to be considered as entering into force on the day of its acceptance by the Swiss electorate.
- 12 It is in this context of radical change in the country's legal framework that the law governing the application of the Weber initiative is currently being drawn up. The draft of the federal legislation on second homes, issued by the Federal Council for consultation on June 26, 2013, provides for a certain degree of flexibility in the implementation of the initiative. It authorises the construction of individual second homes, for example, apartments within a block, on condition that the owners contractually undertake to rent their property to visitors through a professional agency. Owners may also use the property themselves but not for more than three weeks in the peak season. It also proposes to allow, under certain conditions, the transformation of old buildings worthy of protection into second homes, rather than letting them become derelict. Finally, it makes provision for the possibility of hotel projects (construction of new hotels or renovation of existing hotels) selling 20% of their area in the form of second homes to enable them to meet financing commitments. At the time of writing (January 2014), it is not yet known how the parliament will deal with this draft legislation, but its reception by the tourist cantons concerned appears positive on account of the margins for manoeuvre allowed for in the proposed implementation procedures. On the other hand, the ecologist Franz Weber has manifested his opposition to the draft and is already threatening to launch a referendum if its contents are not modified. Here, it would be expedient to underline another characteristic of the Swiss political system, that is, the absence of a constitutional court responsible for checking that the laws adopted by parliament comply with the Constitution. The parliament thus has a certain flexibility in the manner in which it intends to put into practice at the legislative level article 75a of the Constitution. The draft legislation on second homes, on which it must make a decision, does not therefore respect to the letter the constitutional provision accepted since it makes allowance, in certain cases, for the possibility of building new second homes in municipalities where the limit of 20% of total housing stock has already been reached.
- 13 In the space of 15 months, the legal framework with respect to planning and the construction of second homes has been profoundly changed in Switzerland. Most resorts have seen their development model suddenly become obsolete and now have to find a new model based on market accommodation ("warm beds").

From political discourse to reality on the ground: the importance of local governance

- 14 One of the reasons that convinced the majority of the Swiss electorate to support the Weber initiative is the concern for preserving the landscape from too much urbanisation (Greuter *et al.*, 2012). In the “Forum” section of the *Journal of Alpine Research* | *Revue de géographie alpine*, Bernard Debarbieux has already underlined the importance of alpine landscapes in the Swiss imagination (Debarbieux, 2012). One may add that this initiative was also probably accepted because a section of the Swiss electorate saw a contradiction between the discourse of political and tourism representatives, who assured the public that they were in control of the boom in second homes, and reality on the ground, where building of the latter continued at a steady rate. Indeed, despite the fact that the problems relating to an excessive number of second homes had been known for several decades, there had been few restrictive measures introduced by the public authorities. It was not that the latter denied that these problems existed, but rather that there was a discrepancy between the official discourse of political authorities and the reality on the ground.
- 15 What happened in the Swiss canton of Valais provides an eloquent example of this discrepancy. The study entitled “L’apport économique du tourisme valaisan” published in 1981 by the canton’s tourism department clearly identifies the building sector as being over-dependent on the construction of second homes (Service du tourisme, 1981, p 171):
- 16 “We knew [...], already before beginning this study, [...] that a quarter of all Swiss visitor accommodation is in the canton of Valais but that not even a fifth of total visitor nights in Switzerland are spent in Valais. We also knew that construction dependent on tourism accounts for a large part of labour. Thus, after completing our calculations, we know that these two points, that is the low occupancy rate and the dependence of construction jobs on tourism, represent the main problems of tourism in Valais (translation)” (sections underlined by the authors of the study).
- 17 In response to this observation, and the increases in visitor numbers in the 1960s and 1970s, the search for quality became the leitmotiv of political representatives and tourism officials in Valais in the 1980s, without there being any slowing down, however, in the growth of visitor numbers, and in particular in the number of second homes (Clivaz, 2001, p. 234-240). A minister in the Valaisan government was thus able to assert that it was time to move from a “tourism of construction to a tourism of services” (Bornet, 1983, p. 73), while at the same time pursuing in practice an essentially quantitative development. From the mid-1990s, it was the notion of sustainable development that became accepted as the benchmark for tourism policy. Benefiting from the impetus resulting from the candidature of Sion for the organisation of the Winter Olympics of 2006, the Grand Council (parliament) of Valais adopted a Charter for Sustainable Development in 1998. This found expression in the canton’s tourism policy of 2003, which contained the objective, already mentioned earlier, of limiting the number of second homes. In reality, however, the elected officials of the cantons and municipalities were not in favour of putting a brake on the construction of second homes, which in the short term provided jobs and revenues for local authorities. Only a few resorts adopted measures in this respect, such as the introduction of an annual quota (for example,

authorisation for an area of 850m² per year in second homes in Zermatt, 8000m² in Crans-Montana).

- 18 Generally speaking, and as we have already observed, the Confederation, like the cantons, has in more recent years become more concerned by the issue of second homes and encouraged the municipalities to adopt measures aimed at better controlling their expansion. However, most municipalities have declined to introduce such measures. There is thus a significant difference between the rhetoric of political representatives, who recognise the need to slow down the boom in second homes, and the reality in the resorts where, apart from a few exceptions, the construction of second homes has continued unabated. It is therefore estimated that nearly 4000 new second homes have been built each year between 2000 and 2010 in the Swiss Alps (BAKBASEL, 2013, p. 3).
- 19 To understand this discrepancy, it should be remembered that the municipalities enjoy a strong decisional autonomy in the Swiss federal system, particularly in the field of spatial planning³. This autonomy means that the adoption, or not, of measures aimed at limiting the spread of second homes depends on the balance of power between different actors participating in political decision-making at the local level. A few years ago, an analysis conducted in the resort of Crans-Montana enabled us to identify the following factors contributing to the absence of regulatory initiatives from locally elected officials in land and real estate issues (Clivaz, 2006, p. 82):
 - “Politically, it is not in the interest of the elected representatives to take any measures that would jeopardise their re-election;
 - They are often involved in systems based on family ties which restrict their room for manoeuvre;
 - The current development of real estate property in the resort generates substantial revenues, at least in the short term, for the local economy and the commune's finances;
 - A number of the elected representatives are themselves active in the building, real estate and notarial sectors.”
- 20 It would nevertheless appear expedient to broaden the perspective and examine not only the role of elected officials in local governance, but also that of other actors in the resort. To do this, it may prove useful to adopt an approach similar to those relating to *growth coalitions* (Logan and Molotch, 1987) and *urban regimes* (Stone 1989, 2005) developed originally to explain the development of US cities. Without describing them in detail here, these approaches assume that informal coalitions of public and private actors are created in towns in order to reach development objectives, namely in planning and real estate matters, objectives that would not be attainable for local authorities without the cooperation of private actors. These approaches have already been employed on several occasions to understand the development of resorts such as Whistler (Gill, 2007), Rimini (Conti & Perelli, 2007) or, in Switzerland, Montreux (Sauthier, 2011), Saas-Fee and Verbier (Duverney, 2007), and their use provides insights into local power relations and decisions taken within tourist municipalities. Thus a review of the development of Swiss resorts reveals the existence of something comparable to a *growth machine* made possible by the presence of a coalition of actors in favour of resort development, and particularly the expansion of real estate, quite apart from the weakness of the regulatory measures already mentioned at the supra-municipal level. Elected officials, professionals of the tourism industry, actors in the construction business, real estate developers and landowners all share the desire to see the resort grow. There are certainly conflicts between these actors, in particular regarding the manner and means to be used to

achieve real estate growth, or concerning the distribution of the benefits arising from the latter, but this is not called into question as an objective of development. In a context of increasing competition among resorts, a crucial issue concerns the capacity of local authorities to convince investors (international) to finance their real estate development, synonymous with jobs, economic spin-offs and tax revenues.

The Weber initiative as a stimulus for innovation and collaboration

- 21 The acceptance of the Weber initiative marks a turning point in the development of Swiss resorts. For some fifty years, their development model focused principally on real estate activity and the sale of holiday flats, but must now be thoroughly re-examined. In a globalised tourist world, a crucial question is whether these resorts are able to reinvent themselves and ensure the continuity of tourism by basing development on another accommodation model or, alternatively, to move towards an “exit” from tourism through the development of other activities, such as a residential economy (Clivaz et al., 2011). The challenge is particularly difficult for the “small” resorts that have not experienced a significant real estate and tourism boom in recent years and will have difficulties in finding their place in an increasingly competitive tourism market. The situation is not the same for the large resorts. Experts responsible for evaluating the possible effects of an acceptance of the Weber initiative thus reached the conclusion that “the future of very touristic regions is not likely to be in danger in the long term from a levelling off in the construction of second homes. It is true that in the short term such regions will have to expect some economic difficulties, but the limit on the construction of second homes should have positive consequences in the long term” (rütter+partner, 2008, p. 13). Indeed, the acceptance of the Weber initiative provides an opportunity to reflect on the type of development desired and to return to an activity that is truly touristic rather than essentially based on real estate development, in other words to selling the milk rather than selling the cow. It obliges the elected officials of the municipalities and cantons to put into practice the objectives of reducing the proportion of “cold beds” and promoting “warm beds”, which often figured in their political programmes but were, at the time of the adoption of restrictive legal provisions, swept away by the power of those interests related to the generation of land and real estate rents. It calls for the providers of tourist services, particularly real estate agents, to show proof of innovation in imagining new business models. Acceptance of the Weber initiative could thus be the element that triggers the shift, announced since the 1980s, from a “tourism of construction” to a “tourism of services” where the land becomes valued more for its use and less for its simple exchange value.
- 22 A fundamental issue relating to this change of paradigm concerns the territorial level at which tourism development should be organised. Until now, the municipalities have had considerable latitude in this respect, despite federal and cantonal public policies (land planning, regional policy) encouraging the supra-municipal planning of tourism development. We have already underlined the fact that the municipalities often did not have the necessary know-how to deal with spatial planning questions and that it was frequently difficult for locally elected officials to get restrictive measures in this domain accepted (Clivaz & Nahrath, 2010). Thus the question arises as to whether it would be advisable to transfer a certain number of responsibilities to the supra-municipal level,

that is, to the cantons or a grouping of municipalities, for example, at the scale of a valley. But here we touch upon the very principle of federalism, a very sensitive political topic in Switzerland. However, the principle of subsidiarity, at the heart of federalism, implies that the responsibility for decision-making rises to the next level when the issue under consideration cannot be managed satisfactorily at the lower level. In the case of tourism planning and development of mountain areas, the changes observed in recent decades regarding urban sprawl, but also more generally in terms of infrastructures and tourism development, plead in favour of such a transfer, or at least for a more sustained intervention from the cantonal authorities in the planning of tourism development. This in fact is the direction taken in Switzerland by the canton of Vaud which, as a condition for its financial support, requested the nine municipalities that make up the Vaud's alpine region (namely the resorts of Villars, Leysin and Les Diablerets) to group together in a tourism-based community with a view to jointly conducting a diagnostic analysis and defining a vision and plan of action (CITAV, 2013).

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NOTES

1. Even if this distinction in everyday language between “tourism of construction” and “tourism of services” is somewhat exaggerated, in that tourist activity implies both the construction and use of infrastructures, it nevertheless refers to two different models of development (cf. infra).
2. It should be pointed out that the initiative intends to no longer allow new second homes in municipalities with at least 20% of their total housing stock already in second homes, but does not intend to request those municipalities already exceeding this percentage to return to a figure of 20%.
3. To be exact, the autonomy of the municipalities concerning spatial planning can vary considerably from one canton to another. In the alpine cantons, however, the municipalities have plenty of room for manoeuvre in this respect.

ABSTRACTS

The acceptance of the initiative to limit second homes was a real shock for Swiss tourist regions. By placing this decision in the more general context of the debate on the advantages and disadvantages of a resort development model based on the construction of second homes, we first review the role of the Swiss public authorities in managing this issue, a role that until now has been somewhat limited. We also draw attention to the discrepancy between the rhetoric of politicians and tourism officials, who are in favour of a restriction on building new second homes, and the reality on the ground, where the construction of new second homes continues unabated. Our main hypothesis is that the modification of the legal framework imposed by the acceptance of the initiative will compel tourism actors to innovate in order to put in place a new development model based on market accommodation, in other words to move from a “tourism of construction” to a “tourism of services”.

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Keywords: second homes, winter sports resorts, policy, governance, Switzerland

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